

REPORT OF THE EXECUTIVE OFFICER  
State Allocation Board Meeting, March 28, 2001

FUNDING PROCESS WHEN HARDSHIP  
FUNDS ARE UNAVAILABLE

PURPOSE OF REPORT

To present a request to adopt amendments to the regulations regarding the approval of projects when hardship funds are insufficient to fully fund the State's share of the project.

DESCRIPTION

Based on the remaining hardship funds from Proposition 1A of approximately \$185 million before today's consent calendar is approved, the SAB may not be able to fully fund new construction (NC) projects after the June 2001 meeting even though there will be about \$950 million remaining in the NC funding category at that time. Hardship funds are used for the following:

- Excessive cost grants pursuant to Section 1859.83. Typically, most projects include some excessive cost grants for geographic location, small school allowance, urban etc. The average is approximately five percent of the state NC or modernization grant.
- Financial hardship pursuant to Section 1859.81. Based on the "unfunded" approvals for NC, financial hardship requests represent approximately 65 percent of the state NC grant and one percent of the state modernization grant.
- Facility hardship projects pursuant to Section 1859.82. Approximately \$81 million will be needed from hardship funds for this purpose.

STAFF COMMENTS

If hardship funds are exhausted and there are still NC funds available for allocation, existing regulations allow the district to either:

1. Accept the state funding available for the project as the "full and final" apportionment. No additional state funds are provided for the project at a later date.
2. Request the entire project be placed on an "unfunded" list for consideration of an apportionment at a later date.

The provision in item 1 essentially provides less funding than needed to adequately complete the project. The district would have to fund the difference or reduce the scope of the project. It is unrealistic to require districts to accept less state funding for a project than it is eligible for or encourage the district to reduce the scope of the project because of limited state funds.

It appears the existing regulations could be amended without affecting the PP mechanism and allocate funds (PP permitting for NC projects) to eligible projects based on the funding available (i.e. partial apportionment) and place the balance of the state funded portion of the project on the "unfunded" list provided there was assurances from the district that it had sufficient funds to complete the project within the timelines provided in law.

### STAFF COMMENTS (cont.)

Since approximately five percent of the typical project is excessive cost grants, non-financial hardship districts would only have to temporarily fund a small portion of the project that would normally be funded with hardship funds. Since this is a small amount, there is no reason to require documentation from the district that it has interim funding for the balance of the state's share it was unable to fund.

However, for financial hardship districts the amount would be significant since the district's 50% share would also require temporary district funding. A financial hardship district should be required to demonstrate in advance of the partial apportionment that it has obtained interim funding for the balance of the state's share not funded.

When hardship funds become available to the Board at a later date and PP are still in effect, the remaining portion of the project included on the "unfunded" list will be recommended for funding based on the PP regulations along with all other projects on the "unfunded" list, regardless if the project received a partial apportionment. If PP are not in effect, the remaining portion of the project will be recommended for funding based on the date it was originally placed on the "unfunded" along with all other projects, regardless if the project received a partial apportionment. The fact that a project received a partial apportionment will not in any way increase the priority for funding or cause that project to be funded "out of order".

The State Allocation Board Implementation Committee discussed these issues and supports staff's recommendation.

### CURRENT REGULATIONS/LAWS

- Regulation Section 1859.95 provides that if a project is not funded due to the lack of funds or because of insufficient priority points (PP), the project is placed on an "unfunded" list for consideration of funding at a later date when funds are available.
- Regulation Section 1859.91 provides that once PP are in affect, the SAB must allocate funds under the PP mechanism adopted by the SAB.
- Education Code Section 17076.10(d) provides that once an apportionment is made, the district must meet the criteria to have those funds released within 18 months.
- Regulation Section 1859.94 provides that when the Board has no hardship funds the district may elect to either accept the state funds available for the project, as the final apportionment or request the project be suspended and considered for apportionment when funding becomes available to the Board.

### RECOMMENDATION

Adopt the amendments to the regulations as shown on the Attachment and begin the regulatory process.

## ATTACHMENT

### HARDSHIP FUNDING

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#### Section 1859.94. Hardship Funding.

- (a) Hardship assistance provided as a part of a New Construction Grant shall be subject to the same priority point determination as the New Construction Grant.
- (b) To the extent that hardship funds are available, the Board may elect to specifically set aside funding for financial hardship grants as provided in Section 1859.81, facility hardship grants as provided in Section 1859.82 or Excessive Cost Hardship Grants as provided in Section 1859.83.
- (c) Should a district request hardship funding for either a financial hardship grant pursuant to Section 1859.81, a facility hardship grant pursuant to Section 1859.82 or an Excessive Cost Hardship Grant pursuant to Section 1859.83 and the Board has no funds to allocate for that specific hardship as a result of the reservation of funds made pursuant to (b), the district may elect to either:
  - (1) With the exception of districts that qualify for financial hardship pursuant to Section 1859.81 for the project, accept funding for the project based on the New Construction or Modernization Adjusted Grant less any hardship funding grants that are not available pursuant to (b). When this option is selected, the hardship funding grants not allocated for the project shall be the full and final apportionment for the project. placed on the Unfunded List. If the project was previously placed on the Unfunded List, the project shall retain the original date in was placed on that Unfunded List.
  - (2) If the district qualified for financial hardship pursuant to Section 1859.81 for the project, accept funding for the project less any hardship funding grants that are not available. The District Representative must certify to the OPSC that the district has obtained interim funding for the project equal to or greater than the hardship funding grants not allocated due to insufficient funds. When this option is selected, the hardship funding grants not allocated for the project shall be placed on the Unfunded List. If the project was previously placed on the Unfunded List, the project shall retain the original date in was placed on that Unfunded List.
  - (3) Decline to accept funding for the project. When this option is selected, the project shall be placed on the Unfunded List. If the project was previously placed on the Unfunded List, the project shall retain the original date in was placed on that Unfunded List. Suspend its application for funding until funding for the specific hardship grant is available to the Board. Applications of this nature will be retained by the OPSC and included on a list for future funding based on the date the district elected to suspend the application.

A project or portion of a new construction project not funded as a result of Subdivision (c) shall be subject to the Board's priority point mechanism pursuant to Sections 1859.91 and 1859.92.

Note: Authority cited: Sections 17075.15 and 17070.35, Education Code.

Reference: Section 17075.15, Education Code.

Section 1859.95. Acceptance of Applications When Funding Is Unavailable.

When the Board has no funds to apportion or the application does not qualify for funding because of the Board's priority point mechanism pursuant to Sections 1859.91 and 1859.92, the Board will continue to accept and process applications for eligibility determination. The Board will also accept and process applications for apportionment for purposes of developing an Unfunded List based on the date the ~~Approved Application was accepted by the OPSC~~ application is Ready for Apportionment. Applications for New Construction Adjusted Grants for a project where the site was apportioned pursuant to Section 1859.75.1 shall receive a date on the Unfunded List based on the date the environmental hardship site apportionment was made for the project.

With the exception of financial hardship eligibility, a district with an application included on an Unfunded List shall not be required to re-establish eligibility for that application prior to apportionment.

An application for funding included on an Unfunded List is eligible for reimbursement subject to adjustments in the New Construction Grants amount pursuant to Section 1859.77.

Note: Authority cited: Sections 17070.35 and 17072.25, Education Code.

Reference: Section 17070.35, Education Code.